

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ROBERTO DURAND,

Plaintiff,

v.

LISA M. CLARK,

Defendant.

Case No. 3:21-cv-00291-MMD-CSD

ORDER

Pro se Plaintiff Roberto Durand brings this action under 42 U.S.C. § 1983. Before the Court is the Report and Recommendation (“R&R” or “Recommendation”) of United States Magistrate Judge William G. Cobb (ECF No. 10),¹ recommending the Court dismiss Durand’s amended complaint with prejudice and deny as moot both Durand’s motion for appointment of counsel (ECF No. 3) and second motion to proceed *in forma pauperis* (ECF No. 8). Plaintiff had until March 1, 2022, to file an objection.² To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court adopts the R&R, and will both dismiss the amended complaint with prejudice and dismiss the pending motions as moot.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114,

¹Judge Cobb retired after he issued the R&R. (ECF No. 13.) United States Magistrate Judge Craig S. Denney now presides over this case. (*Id.*)

²Durand moved for an extension of ‘over 30 days’ to file an objection to the R&R (ECF No. 11), and the Court granted him an extension to March 1, 2022 (ECF No. 12). But Durand nonetheless failed to file an objection to the R&R by March 1, 2022.

1 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and
2 recommendations is required if, but *only* if, one or both parties file objections to the
3 findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory
4 Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no
5 clear error on the face of the record in order to accept the recommendation.”).

6 Because there is no objection, the Court need not conduct de novo review, and is
7 satisfied Judge Cobb did not clearly err. Here, Judge Cobb recommends dismissing
8 Durand’s amended complaint with prejudice because “the allegations of the amended
9 complaint are vague and disjointed and without any factual basis to state a constitutional
10 claim against Ms. Clark” and Durand has already had an opportunity to amend. (ECF No.
11 10 at 4.) Judge Cobb accordingly recommends denying the pending motions as moot.
12 (*Id.*) The Court agrees with Judge Cobb. Having reviewed the R&R and the record in this
13 case, the Court will adopt the R&R in full.

14 It is therefore ordered that Judge Cobb’s Report and Recommendation (ECF No.
15 10) is accepted and adopted in full.

16 It is further ordered that Durand’s amended complaint (ECF No. 7) is dismissed, in
17 its entirety, with prejudice.

18 It is further ordered that Durand’s motion for appointment of counsel (ECF No. 3)
19 is denied as moot.

20 It is further ordered that Durand’s second motion to proceed *in forma pauperis*
21 (ECF No. 8) is denied as moot.

22 The Clerk of Court is directed to enter judgment accordingly and close this case.

23 DATED THIS 2nd Day of March 2022.

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27 MIRANDA M. DU
28 CHIEF UNITED STATES DISTRICT JUDGE